APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/510,449	04/05/2005	Bertrand Bouvet	0600-1183	2431

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EXAMINER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/510,449	BOUVET, BERTRAND
	Examiner	Art Unit	
	JEFFREY NICKERSON	2442	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *30 December 2008*.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
   closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-20* is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-20* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on *21 November 2008* is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a) ☐ All   b) ☐ Some * c) ☐ None of:

   1. ☐ Certified copies of the priority documents have been received.

   2. ☐ Certified copies of the priority documents have been received in Application No. _____.

   3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
      application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1.   This communication is in response to Application No. 10/510,449 filed nationally

on 05 April 2005 and internationally on 04 April 2003.   The request for continued

examination presented on 30 December 2008, which provides replacement drawings,

and provides change to claims 1, 2, 6, 9-10, 13, 16, and 20, is hereby acknowledged.

Claims 1-20 have been examined.

Drawings

2.   The replacement drawings filed on 21 November 2008 are accepted. The prior

objection to figures 2 and 4 are therefore obviated and hereby withdrawn.   The

outstanding objection to figures 1 and 3 is hereby maintained and recited again below.

3.   The drawings are objected to as failing to comply with 37 CFR 1.84(o) because

Figures 1 and 3 do not include adequate labeling that identifies the components without

reference to the specification. See, for instance, previously referenced US 6,658,415

B1, Figures 1-4, for adequate labeling of network environments.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to

the Office action to avoid abandonment of the application. Any amended replacement

drawing sheet should include all of the figures appearing on the immediate prior version

of the sheet, even if only one figure is being amended. Each drawing sheet submitted

after the filing date of an application must be labeled in the top margin as either

"Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are

not accepted by the examiner, the applicant will be notified and informed of any required

corrective action in the next Office action. **The objection to the drawings will not be**

held in abeyance.

Response to Arguments

4.   Applicant's arguments filed 21 November 2008 have been fully considered and

are deemed persuasive.

Independent claims 1 and 20

Applicant argues the combined teachings do not teach several limitations found within

these claims, as amended.

Applicant's arguments are persuasive and, therefore, the rejections of these claims are

hereby withdrawn. However, new rejections may appear below.

Dependent claims 2-19

Rejections of these claims are hereby withdrawn for reasons stated above. However,

new rejections may appear below.

Claim Rejections - 35 USC § 112

5.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

6.   Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

Regarding claim 1, this claim does not clearly identify the preamble or contain a valid

transitional phrase. This claim is nominally directed towards "a data exchange system",

however no transitional phrase exists for the *system* and it is therefore unclear which

limitations form the system and which limitations are a mere intended use. The only

transitional phrase the examiner identifies is "associated with", which is in regard to the

control server and not the data exchange system. Furthermore, the examiner

recommends against the use of phrase "associated with" as its exclusionary properties

are unknown. See MPEP 2111.03 for more information regarding transitional phrases

and those generally accepted and well-defined.

Regarding claim 2, the second stanza of this claim recites "the constitution", "the

elements", and "it". There is no antecedent basis for constitution or elements, and there

is ambiguity as to what the "it" is. It would appear this limitation is directed towards

monitoring a status of the system. However, the third limitation of this claim establishes

a list of usable payment instruments based on the second limitation. The examiner is

unsure how this can happen, when the second limitation speaks nothing of payment

instruments. Therefore, it is impossible to determine what this stanza is referring to.

For purposes of further examination, the examiner will consider this phrase to read

"data monitoring means for monitoring a status of the system". Further regarding this

claim, the third limitation contains the phrases "said list of authorized instruments" and

"said acquired data", which have no antecedent basis. For purposes of further

examination the examiner will consider this limitation to read "means for establishing the

catalog of at least two usable payment instruments from the predetermined list and the

status of the system."

Regarding claims 1-19, some of these claims' preambles are grammatically confusing,

have unidentifiable transitional phrases, have limitation indentations subsequent a non-

valid transitional phrase, and generally do not conform to US practice. See MPEP

608.01(m) and MPEP 2111.03. The examiner will attempt to interpret these claims as

appropriately as possible. Applicant should also be aware that the term "suitable for"

imposes no required functionality (claims 3-4, 18), as any generic computer is "suitable

for" doing anything you can potentially configure it to do. Furthermore, these claims

contain multiple, significant antecedent basis errors, such as utilizing the phrases "it",

"they", or "them" (claims 2, 8, 10, 16, 18-19), or referring to subsequent nouns using

"said" or "the" incorrectly (claims 1-7, 9, 11-12, 16-19). Also, reference characters are

generally discouraged from the claim language, as it is indefinite whether indefinite

limitations from the drawings are being asserted as incorporated in the claims. See

MPEP 2173.05(s). Some of these claims (claims 7, 13, 16, 18-19) also recite "in order

to" language, which is indefinite because it is ambiguous as to whether the subsequent

language is an inherent causal effect, an actual claim limitation, or an intended use.

Regarding claim 11, this claim recites "connecting said receiver station to [the data

transfer] network". It is unclear whether this "connecting…" is being performed by "said

data transfer network" or "said user management server".

Regarding claim 16, this claim recites "thanks to said user identifiers" and "in order to

…". It is unclear whether these phrases are actual limitations of the claimed

functionality or just intended uses. Limitations should recite positive, definite

functionality of system elements.

Claim Rejections - 35 USC § 103

7.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

8.   Claims 1-10, 13-16, and 19-20 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Daly et al (US 5,878,141), and in further view of Baumgartner (US

2004/0167821 A1).

Regarding claim 1, Daly teaches a data exchange system over a data transfer network between a receiver station (STB) and a data server with conditional access (service provider), in which data exchanges over the data transfer network are managed and authorized by a control server (Head end server) (Daly: Figures 3-4, col 9, lines 8 – col 11, line 22), wherein the control server comprises:

means for access to sponsoring institutions (Daly: col 12, line 66 – col 13, line 34 provides the head end has access to the sponsoring institution of the selected payment method);

means for forming a catalog of payment instruments, the payment instruments being usable and accessible by a user of said receiver station for selection, by the user, of one of these payment instruments (Daly: abstract; col 12, lines 12-53 provides for creating set of selectable payment instruments from intersection of subscriber approved payment methods and merchant approved payment methods);

means for exchanging information with the sponsoring institution associated with the selected payment instrument to receive credit or billing data associated with the selected payment instrument (Daly: col 13, lines 22-35);

means for determining parameters for control of the data exchanges over said network corresponding to the credit or billing data (Daly: col 13, lines 22-35 provides for denying payments and access to goods/services); and

means for data exchange control over the network according to the determined parameters (Daly: col 13, lines 22-35 provides for denying access to goods/services).

Daly does not teach wherein the sponsoring institutions comprise at least two different user management servers, each user management server providing credit or billing data associated with the respective payment instrument.

Baumgartner, in a similar field of endeavor, teaches wherein the sponsoring institutions comprise at least two different user management servers providing credit or billing data associated with the respective payment instrument (Baumgartner: [0021]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Baumgartner for interfacing to multiple payment authorities. The teachings of Baumgartner, when implemented in the Daly system, will allow one of ordinary skill in the art to receive approval for billing transactions from multiple different interbank networks. One of ordinary skill in the art would be motivated to utilize the teachings of Baumgartner in the Daly system in order to allow users to pay with multiple brands of credit/debit instruments.

Regarding claim 2, the Daly/Baumgartner system teaches wherein said means for forming a catalog of usable payment instruments comprises:

storage means for maintaining a predetermined list of payment instruments authorized for access to said conditional access data (Daly: col 12, line 11-28);

data monitoring means for monitoring a status of the system (Daly: col 12, lines 28-42); and

means for establishing the catalog of at least two usable payment instruments from at least the predetermined list and the status of the system (Daly: col 12, lines 11-65).

Regarding claim 3, the Daly/Baumgartner system teaches wherein said data monitoring means further comprises:

analysis means for analysis of the receiver station, suitable for acquiring data relating to the nature of the receiver station or data relating to the exchange capabilities of the receiver station (Daly: col 12, lines 12-28 provides for retrieving the user's spending limits, etc).

Regarding claim 4, the Daly/Baumgartner system teaches wherein said monitoring means further comprises:

means for connecting the receiver station to the network, suitable for providing data relating to the connection between the receiver station and the network or data relating to the time of data exchanges (Daly: col 12, lines 12-28; col 2, lines 20-39).

Regarding claim 5, the Daly/Baumgartner system teaches wherein said control server further comprises:

means for remote interrogation of said connection means to obtain said data (Daly: col 7, lines 26-39).

Regarding claim 6, the Daly/Baumgartner system teaches wherein said means for determining parameters is connected to means for storing data concerning conditions of access to said data with conditional access (Daly: Figure 4; col 8, lines 36-46); and

wherein means for determining parameters is connected to means for storing exchange authorization data associated with the payment instrument to establish said exchange control parameters (Daly: Figure 4; col 12, lines 11-65).

Regarding claim 7, the Daly/Baumgartner system teaches wherein said means for determining parameters is connected to means for supervising an operation of the receiver station, in order to receive, from said means, data relating to a state of activity or the operation of the receiver station (Daly: col 11, lines 22-45).

Regarding claim 8, the Daly/Baumgartner system teaches wherein said means for supervising is formed by software means initially stored in the system and transmitted to said receiver station on which they reside throughout the data exchanges (Daly: col 9, lines 8-63; col 7, lines 26-47).

Regarding claim 9, the Daly/Baumgartner system teaches wherein said exchange authorization data associated with the selected payment instrument corresponds to one of temporal credit data, monetary credit data, fixed charge credit data, data volume credit data, and billing data (Daly: abstract; col 8, lines 20-45; col 13, lines 22-35).

Regarding claim 10, the Daly/Baumgartner system teaches wherein the user management server associated with the selected payment instrument comprises at least one database containing said exchange authorization data associated with the payment instruments (Daly: col 12, lines 12-65 for payment authorities maintaining authorization data; abstract for wherein stored in database).

Regarding claim 13, the Daly/Baumgartner system teaches further comprising:

means for determining a user identifier associated with said payment instruments in order to allow an identification by said user management server of a corresponding user account (Daly: col 12, lines 11-28).

Regarding claim 14, the Daly/Baumgartner system teaches wherein said means for determining a user identifier are automatic means of identification of the receiver station (Daly: col 12, lines 11-28).

Regarding claim 15, the Daly/Baumgartner system teaches wherein said means for determining a user identifier are means of manually inputting an identifier (Daly: col 11, lines 23-45).

Regarding claim 16, the Daly/Baumgartner system teaches further comprising:

means for debiting said exchange authorization data, associated with said

payment instrument, according to the data exchanges (Daly: col 13, line 58 – col 14,

line 10).

Regarding claim 18, the Daly/Baumgartner system teaches wherein said data exchange

control means are suitable for being interposed between said data server and said

receiver station in order to directly control all the data exchanges between them (Daly:

Figure 3).

Regarding claim 19, the Daly/Baumgartner system teaches wherein said data exchange

control means are interrogated periodically by said receiver station in order to transmit

to it or not an authorization for access to the data of said data server (Daly: col 9, line 49

– col 10, line 6; col 16, line 22-32).

Regarding claim 20, this claim contains limitations found within that of claim 1 and the

same rationale of rejection is used, where applicable.

9.   Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Daly et al (US 5,878,141), in view of Baumgartner (US 2004/0167821 A1), and in further

view of Riley et al (US 2002/0010800 A1).

Regarding claim 11, the Daly/Baumgartner system teaches wherein said user management server is a server that provides user management capabilities (Baumgartner: [0021]).

The Daly/Baumgartner system does not teach wherein the user management server provides access to said data transfer network connecting said receiver station to said network.

Riley, in a similar field of endeavor, teaches a server (network access system) that provides access to said data transfer network connecting said receiver station (host computer) to said network (Riley: Figures 1-3; See also [0052]-[0053]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Riley for managing the data connection between the receiver station and the network. The teachings of Riley, when implemented in the Daly/Baumgartner system, would allow for secure access regulation between the receiver station and the data network. One of ordinary skill in the art would be motivated to utilize the teachings of Riley in the Daly/Baumgartner system in order to prevent information leaking.

Regarding claim 12, the Daly/Baumgartner/Riley system teaches a system characterized in that said user management server is a server controlling the physical means of connection of the receiver station to the data transfer network (Riley: Figure 4).

10.   Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Daly et

al (US 5,878,141), in view of Baumgartner (US 2004/0167821 A1), and in further view of

Adam et al (US 2002/0181710 A1).

Regarding claim 17, the Daly/Baumgartner system teaches wherein said debiting

means are accessible by said control server and the user management server (Daly:

Figure 4).

        The Daly/Baumgartner system does not teach wherein the debiting means

comprises a debiting server connected to a telephone type network and wherein said

debiting server is accessible through a programmable call controller.

        Adam, in a similar field of endeavor, teaches wherein said debiting means

comprise a debiting server connected to another network of the telephone type and

accessible through a programmable call controller (Adam: Figure 4; abstract).

        It would have been obvious to one of ordinary skill in the art at the time the

invention was made to utilize the teachings of Adam for using a mobile phone

administration server to debit user bank accounts. The teachings of Adam, when

implemented in the Daly/Baumgartner system, would allow for communication over

telephone networks. One of ordinary skill in the art would be motivated to utilize the

teachings of Adam in the Daly/Baumgartner system in order to utilize already-

established networks.

Citation of Pertinent Prior Art

11.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

      a.   Reeder (US 6,014,636) discloses a POS using interactive TV.

      b.   Diveley et al (US 7,165,052 B2) discloses a system for managing

payments.

      c.   Lindner (US 2003/0120549 A1) discloses a pay-for-content system.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEFFREY NICKERSON whose telephone number is (571)270-3631. The examiner can normally be reached on M-Th, 9:00am - 7:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571)272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. N./
Jeffrey Nickerson
Examiner, Art Unit 2442

/Andrew Caldwell/
Supervisory Patent Examiner, Art Unit 2442